

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE**

## STATE OF WASHINGTON,

**Plaintiff,**

V.

UNITED STATES DEPARTMENT OF  
HEALTH AND HUMAN SERVICES;  
ALEX M. AZAR, in his official capacity as  
the Secretary of the United States  
Department of Health and Human Services,

### Defendants.

NO. 2:20-cv-01105

DECLARATION OF  
EVERETT MAROON

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MAROON

**ATTORNEY GENERAL OF WASHINGTON**  
Civil Rights Division  
800 Fifth Avenue, Suite 2000  
Seattle, WA 98104  
(206) 464-7744

1                    **DECLARATION OF EVERETT MAROON**

2                    I, EVERETT MAROON, declare under penalty of perjury under the laws of the United  
 3 States of America that the foregoing is true and correct:

4                    1.        I am over the age of 18, have personal knowledge of the facts and circumstances  
 5 in this Declaration, and am competent to testify in this matter.

6                    2.        I currently serve as a Commissioner of the Washington State Lesbian, Gay,  
 7 Bisexual, Transgender, and Queer (LGBTQ) Commission, a state agency established pursuant  
 8 to RCW 43.114.020 for the purpose of improving the State's interface with the LGBTQ  
 9 community, identifying the needs of its members, and ensuring that there is an effective means  
 10 of advocating for LGBTQ equity in all aspects of state government.

11                  3.        I also serve as the Executive Director of Blue Mountain Heart to Heart, which is  
 12 a non-profit organization based in Walla Walla, Washington that provides support services to  
 13 individuals living with HIV/AIDS. Blue Mountain Heart to Heart provides medical case  
 14 management services, mediation adherence, and empowerment to understand insurance issues,  
 15 as well as advocacy for those in need.

16                  4.        I hold a bachelor's degree in English Textual Studies from Syracuse University.  
 17 I have substantial experience in public health and related policy matters, and am engaged as a  
 18 citizen concerned about many issues, including access to healthcare by the LGBTQ community  
 19 in Washington and beyond.

20                  5.        I am also a transgender man. As such, I have personal experience with the  
 21 barriers to adequate, culturally competent, and non-discriminatory healthcare by members of  
 22 the LGBTQ community. For myself, I have had several experiences where I felt uncomfortable  
 23 seeking healthcare services from medical providers because of comments they made to me or  
 24 their lack of understanding about my medical needs as a transgender man. I have also heard  
 25 from numerous friends and colleagues about similar, and in some cases, more extreme examples  
 26 of healthcare discrimination against LGBTQ individuals in Washington.

1       6. My own experience trying to secure gender affirming healthcare services in  
2 Washington State has shown me that not only are some providers biased against transgender or  
3 gender non-conforming people, some are simply unable to provide competent services for  
4 transgender individuals because they lack training, education, and understanding about health  
5 issues affecting transgender people. Some are also unable or unwilling to navigate the complex  
6 systems of insurance and healthcare coverage necessary to provide gender affirming healthcare  
7 services for transgender or gender non-conforming people.

8       7. The barriers faced by transgender or gender non-conforming people, including  
9 myself, are substantial in rural Washington State. In the Walla Walla area, gender affirming and  
10 gender appropriate healthcare services are very difficult to come by. Combining this with the  
11 bias and lack of cultural competence means that transgender individuals must often travel  
12 extraordinary distances to secure such services. Some are not able to do so because of their  
13 economic situation. At one time, I had to travel regularly from Walla Walla to a physician near  
14 Portland, Oregon—a distance of over three and a half hours one way by car—to secure gender  
15 affirming healthcare services from a provider I was comfortable with.

16       8. A few years ago, several colleagues and I decided to conduct a Needs  
17 Assessment of the LGBTQ community in the Walla Walla area. Several of us had education or  
18 experience in public health and social sciences, and we believed it could benefit our LGBTQ  
19 community and the community at large. We prepared and conducted a survey of over 100  
20 LGBTQ people and asked about their experiences of discrimination and several contexts,  
21 including healthcare. What we found was consistent with much of the social science research  
22 conducted at the national level, and just as troubling.

23       9. For example, we found that 21% of the respondents had avoided healthcare, and  
24 that three quarters of them did so because of fear of disrespect or discrimination, because they  
25 could not afford it, or because of the distance or a lack of transportation.

1       10. Additionally, we found that 45% of respondents sought mental health treatment  
 2 and 44% sought out support groups. 86% of respondents reported suffering emotional  
 3 difficulties including stress, anxiety, and/or depression. 73% of these reported that it was related  
 4 to their sexual orientation and/or gender identity.

5       11. Respondents also described discrimination in healthcare. One respondent said  
 6 they had several experiences of incompetence by a healthcare professional in the area and in  
 7 other states, mostly related to their genetic and surgical history. Another respondent reported an  
 8 experience with their physician asking questions about their “choosing” to be gay and the  
 9 respondent was concerned about the physician’s unfamiliarity with screening for certain  
 10 sexually transmitted diseases for which men who have sex with men are more at risk. That same  
 11 respondent received a very negative response on another occasion when seeking healthcare for  
 12 a condition related to sexual contact with a member of the same gender.

13       12. Perhaps most troubling, our survey revealed that a staggering 41% of the  
 14 respondents in the Walla Walla area had considered suicide, and 36% of them in the past twelve  
 15 months. Specific to the transgender community, 68% had considered suicide, and 24% had  
 16 considered it in the last twelve months. 32% had actually attempted suicide, and one had  
 17 attempted suicide in the last twelve months.

18       13. Some respondents also reported hostility, including verbal harassment,  
 19 emotional abuse, or physical assault, from others in the community. 62% reported hearing at  
 20 least some transphobic or homophobic remarks in their employment. 54% reported hearing at  
 21 least some transphobic or homophobic jokes at work. One respondent reported that after being  
 22 offered a promotion, they disclosed their sexual orientation because they knew it would come  
 23 up eventually and there would be pushback, and the job offer was then rescinded.

24       14. While some respondents reported positive or neutral experiences as a member  
 25 of the LGBTQ community in our area, others reported “exceedingly homophobic” or “horrible”  
 26 attitudes toward LGBTQ people in the community.

1       15. I understand that the federal Department of Health and Human Services (HHS)  
2 has issued a new regulation entitled “Nondiscrimination in Health and Health Education  
3 Programs or Activities, Delegation of Authority,” 85 Fed. Reg. 37160-248 (the “Final Rule”),  
4 which was published in the Federal Register on June 19, 2020. I understand that the Final Rule  
5 specifically denies protection from healthcare discrimination on the basis of sexual orientation  
6 and gender identity or transgender status. Based on my experiences as a transgender man in  
7 rural Washington State, as well as what I have learned from friends and colleagues and the  
8 respondents to our survey, the new Final Rule will exacerbate the health picture for LGBTQ  
9 Washingtonians, especially in rural areas like ours. With certain healthcare coverage plans no  
10 longer prevented from discriminating on the basis of transgender status, transgender or gender  
11 non-conforming Washingtonians in these areas will be denied gender affirming healthcare  
12 services, which will be life-threatening for some. Those who can obtain the coverage and  
13 services will likely be required to travel further at greater cost and inconvenience, and probably  
14 a significant number will postpone healthcare services for that reason, if not for fear of  
15 discrimination, which will lead to negative health outcomes. In my opinion, the transgender  
16 community in Washington State cannot afford these and other setbacks that will result if the  
17 Final Rule takes effect.

18 I declare under penalty of perjury under the laws of the United States and the State of  
19 Washington that the foregoing is true and accurate.

21 DATED this <sup>13<sup>th</sup> day of July, 2020, in walla walla, Washington</sup>

Everett Maroon

— EVERETT MAROON —